



DOCKET ITEM #5
Text Amendment #2009-0009 Infill Regulations

Issue: Consideration of a text amendment to amend the adopted residential infill regulations.	Planning Commission Hearing:	February 2, 2010
	City Council Hearing:	February 20, 2010
Description: Proposed amendments to the adopted residential infill regulations		
Staff: Faroll Hamer, Director, Planning and Zoning faroll.hamer@alexandriava.gov , Barbara Ross, Deputy Director barbara.ross@alexandriava.gov , Peter Leiber, Zoning Manager peter.leiber@alexandriava.gov , Mary Christesen, Urban Planner mary.christesen@alexandriava.gov , Claire Gron, Urban Planner claire.gron@alexandriava.gov		

I. SUMMARY

This text amendment is recommended in order to refine the established infill regulations adopted 18 months ago.

II. BACKGROUND

In June 2008, City Council adopted Residential Infill Regulations to help protect neighborhoods experiencing the construction of oversize new homes and additions incompatible with existing homes. At that time, City Council requested that staff report back 18 months after adoption of the new regulations to describe the effectiveness, impact and success of the regulations and, if necessary, to recommend changes to further strengthen the regulations.

The infill regulations were established to minimize the incompatibility of new residential construction by reducing the size of additions and new homes and controlling the placement on a lot and by requiring teardowns and new construction on developed substandard lots to obtain a special use permit. The regulations also provide incentives, in the form of floor area exclusions, for open front porches and detached rear garages which meet specific criteria. The infill regulations have enabled staff to work with applicants to create projects consistent with the neighborhood context.

In general, the residential infill regulations have been effective and work well. However, as staff reviewed cases, it found a few unintended consequences of the regulations. Staff is therefore recommending minor changes to the regulations to address those issues and to help clarify the existing language and provide better organization within the ordinance.

The Infill Task Force recently met to receive an update from staff regarding the implementation of the Residential Infill Regulations. Staff reported on new homes and additions built after the adoption of the regulations and provided the Task Force with suggestions for possible changes to the language. On December 9, 2009, the Task Force voted to unanimously recommend approval of the proposed changes for forwarding to the Planning Commission and City Council as a formal change to the Zoning Ordinance. See attached memorandum (Attachment 1) from Stewart Dunn, Chair of the Infill Task Force.

III. INFILL PERMIT EXPERIENCE

In order to assess the effectiveness of the infill regulations, staff examined building permits it had reviewed over the past 18 months for single-family and two-family residential properties in the R-20, R-12, R-8, R-5, R-2-5, RA and RB zones. Most new homes and additions were able to comply with the infill rules. The rules do not prohibit or even radically change most projects. Staff works with applicants to ensure compliance with the regulations and to help with minor adjustments to the plans when needed.

The chart below shows the success of the infill regulations over the past 18-months. Due to the recent economic downturn, the number of permits for single-family and two-family residential properties in the R-20, R-12, R-8, R-5, R-2-5, RA and RB zones has decreased from 283 permits during the 18 month period from December 25, 2006 to June 24, 2008 to 237 permits during the 18 month period from June 25, 2008 and December 25, 2009. The nine cases not yet approved represent those where revisions to the plans are required in order to comply and the applicants have not yet submitted the required changes as suggested by staff. Staff will continue to work with these applicants.

	Infill Regulations in Effect June 25, 2008 to December 25, 2009
Total permits reviewed	237
Total permits exempt (vested or in historic district)	9
Total permits subject to Infill regulations	228
Total permits subject to Infill regulations approved	219 (96%)
Total cases subject to infill not yet approved (revising plans to comply)	9 (4%)

The distribution of permit types breaks down as follows:

	Infill Regulations in Effect June 25, 2008 to December 25, 2009
New House	12 (5%)
Addition	140 (61%)
Garage	9 (4%)
Porch	43 (19%)
Other (sheds, dormers, etc)	24 (11%)
Total permits subject to Infill regulations	228 (100%)

IV. PROPOSED TEXT CHANGES

The attached text changes (Attachment 2), recommended by staff and the Infill Task Force do not change the rules adopted 18 months ago to address infill development issues. Those rules are working well. Instead, the proposed changes address issues that were overlooked in the initial infill regulations and make editorial changes so that the rules are clear and easy to find in the ordinance.

The following are the proposed text changes recommended by staff and the Infill Task Force.

1. Front Setback

The front setback regulation required construction to meet the established or average setback of the block and works well when applied to a new dwelling in an established neighborhood. However, most of the cases reviewed by staff since the implementation of the infill regulations were for porches and/or additions. Based

on the location of the existing dwelling, it is often not possible or desirable for an addition or front porch to be built to the established or average setback line. The result could be a very awkward and unattractive building.

In order to allow front porches and other additions to not have to be located on the established or average front setback line, staff added new language to 7-2503(A), formerly section 7-1002(A), making it clear that those rules only apply to new buildings, allowing the Director of Planning and Zoning to determine the appropriate front setback for additions and front porches, and requiring that it be no closer to the front property line than the established or average setback line.

2. Detached Garage Height

The original infill regulations encouraged detached rear garages between 250 and 500 square feet (depending upon the size of the lot) with a maximum height of 10 feet for lots 5,000 to 8,000 square feet and 12 feet for lots greater than 8,000 square feet. The few detached rear garages that were approved had difficulty achieving adequate roof pitch with those current height restrictions. The roof heights currently allowed are lower than what is traditionally found in Del Ray and Rosemont neighborhoods. The rule encourages lower roofs that could detract from the neighborhood architecture and accessory structures.

Staff is recommending two text changes to solve this problem. First, a simple and limited increase in allowed heights should address the design problem in most cases. Staff has added new height maximums to section 7-2505(B)(1), increasing the prior maximums by 1.50 feet. Second, at the direction of the Task Force, staff incorporated language to allow the Director of Planning and Zoning to modify the garage height when the proposed height and design are appropriate and compatible with the existing house and the neighborhood.

3. Attached Garage Location

The infill regulations address the location of attached garages and require them to be loaded from the side, so that garage doors do not face the street. However, the regulations fail to address attached garages on corner lots, which have two front yards, a primary (main) front yard and a secondary front yard. The existing rule means that attached garages cannot be built on most corner lots because there is not adequate turning radius to access the garage from the side yard, which would be behind the house.

Staff has added language to section 7-2506, creating an exception to the rule for corner lots and reformatting the section with headings for ease of referencing.

4. Editorial Changes

- a. The infill regulations are currently found in the supplemental section of the zoning ordinance, under “Supplemental Regulations for Certain Residential Zones”. To be clearer the section has been renamed “Infill Regulations for Single and Two Family Residential Zones”.

- b. For clarification, section 7-1002 is incorporated into the Supplemental Regulations for Single and Two Family Residential Zones, section 7-2500. Section 7-2503 currently refers back to the front door threshold regulations in 7-1002(B) and (C), but, as proposed, will be part it. Staff believes this section is a more appropriate location for the front setback and threshold height regulations.
- c. Section 11-1302(D) regarding the availability of a special exception for front setbacks needs adjustment. On review, staff realized that the word “average” should be changed to “established.” Additionally, section 11-1302(D)(1)(a) seems unnecessary as it repeats the requirements of 7-2503(A), formerly section 7-1002(A). For similar reasons, staff recommends that section 7-2504(C) be deleted since it repeats the provisions already a part of section 11-1302(C).
- d. Currently, there is no language regarding block face for determining front setback. Staff has added language to 7-2503(C), formerly section 7-1002(C), making it clear that a block face determination is necessary for front setback as well as front door threshold and building heights.
- e. Further change on the issue of determining “block face” is to delete the reference to substandard lots from section 7-2503(C), formerly section 7-1002(C). Staff has found that the criteria used to determine the eligibility of a substandard lot is not appropriate when analyzing an infill case. An administrative protocol for unusual situations is still needed and that language is retained. The same change has been made in section 7-2502(C) regarding determining block face for average building heights. The criteria should be based on compatible housing types and development patterns instead of just the location of the lots.

The above changes and minor reorganization of certain sections of the infill regulations will improve staff’s ability to apply the regulations to existing dwellings and corner lots, and will clarify technically complex regulations. They do not change the intent of the adopted Infill Regulations.

STAFF: Faroll Hamer, Director, Barbara Ross, Deputy Director, Peter Leiberg, Zoning Manager, Mary Christesen, Urban Planner, Claire Gron, Urban Planner

ATTACHMENTS:

- (1) Infill Task Force Transmittal Memo to the Planning Commission and City Council
- (2) Proposed Changes to Adopted Residential Infill Regulations

MEMORANDUM

To: Honorable William D. Euille, Mayor and Members of Council
John Komoroske, Chairman, and Members of the Planning
Commission

From: H. Stewart Dunn, Jr., Chairman and Members of the Infill Task
Force

cc: James K. Hartman, City Manager
Faroll Hamer, Director of Planning and Zoning
Peter Leiberg, Dept. of Planning and Zoning
Mary Christesen, Dept. of Planning and Zoning
Claire Gron, Dept. of Planning and Zoning
Barbara Ross, Esquire, Dept. of Planning and Zoning

Date: January 5, 2010

Re: *Review of Infill Regulations adopted by Counsel on June 25, 2008*

Based on the May 27, 2008 recommendations of the Infill Task Force, the Planning Commission and then the Council each unanimously approved and adopted the “infill” regulations developed by the City staff, as modified by the Task Force. Following such adoption by the Council, City staff was requested to brief Council on the performance of these new regulations, explain any issues that may have been raised by the public and, if necessary, provide recommendations to amend these regulations.

We are pleased to report that for the most part the infill regulations have been working quite well. While it is premature to reach any final judgment on these regulations because of the significant decline since 2007 in residential renovations, expansions and new construction, both the City staff and the Infill Task Force believe the regulations are generally working effectively and as intended. The only issues that have surfaced are marginal issues. The City staff has proposed modest modifications of the regulations to address the limited issues

that have arisen, some of which are simply a more logical ordering of the regulations.

We are pleased to submit the following recommendations for your approval, with whatever amendments and modifications you deem necessary and appropriate. These recommendations are unanimously approved by the Task Force and follow two public meetings of the Task Force. They are based on the analysis, evaluations and proposals of staff, and also reflect some ideas and modifications emanating from members of the Task Force.

We are greatly indebted to the excellent work of the staff of the Planning and Zoning Department and in particular to Peter Leiberg, Mary Christesen, Claire Gron and Barbara Ross.

Ken Billingsley
David Brown
Stew Dunn, Chair
Stephen Koenig
Mary Konsoulis
Gaver Nichols
Lisa Vierse May
Maria Wasowski
Lee Weber

PROPOSED CHANGES TO ADOPTED INFILL REGULATIONS

~~7-1002—Residential front setback and front door threshold in line with existing development.~~—[These provisions are retained, but moved to section 7-2503.]

- (A) ~~Unless a different rule is specified for a particular zone, wherever the major portion of a block is developed, and the majority of the buildings built on one side of a street between two intersecting streets or between one intersecting street and a street dead end have been built at a uniform front setback forward or behind the minimum front setback prescribed for the zone in which such buildings are located, residential buildings hereafter erected or altered shall conform to the setback line so established. Absent a majority of buildings at a uniform front setback, the setback shall be established by the average of the front setbacks of the buildings on one side of the street of a block as described above. The board of zoning appeals is authorized to grant a special exception under the provisions of Section 11-1300 to modify the strict application of this requirement.~~
- (B) ~~Whenever the major portion of a block is developed, no front door threshold of a single family, two family or townhouse residential building erected or altered after [January 20, 2007] shall exceed the average height of the front door threshold of the residential buildings built on that block (one side of a street between two intersecting streets or one intersecting street and a street dead end) by more than 20 percent, provided, that additional front door threshold height may be permitted if a special use permit is approved pursuant to section 11-500 of this ordinance, and city council determines that the proposed construction will not detract from the value of and will be of substantially the same residential character as adjacent and nearby properties. For the purpose of this paragraph, the height of the front door threshold is defined as the vertical distance between the average pre construction grade along the front of the building to the top of the threshold. The front door threshold shall accurately reflect the actual location of the first floor of the building, and in all cases the front door threshold shall be measured to the top of the threshold or the top of the highest elevation of the finished first floor, whichever is greater.~~
- (C) ~~For the purposes of this section 7-1002, where the number of buildings on one side of a street between two intersecting streets or between one intersecting street and a street dead end is either fewer than five or where the distance between streets as specified above is less than 200 feet or where the number of buildings is greater than 15 or where the distance between streets as specified above is greater than 600 feet, the director may designate an appropriate block for purposes of calculating front door threshold height without regard to intersecting streets subject to an~~

~~administrative protocol similar to that applied in substandard lot cases, and subject to city council approval as part of the special use permit, if there is one, granted pursuant to this section 7-1002.~~

7-2500 Supplemental Infill Regulations for Certain Single and Two Family Residential Zones.

7-2501 *Applicability*. The supplemental regulations in this section 7-2500 apply to residential dwellings in the R-20, R-12, R-8, R-5, R-2-5, and single-family and two-family dwellings in the RA and RB zones (not including property located within the Old and Historic Alexandria and Parker-Gray Districts). These regulations supplement the residential zone regulations in Article III of this zoning ordinance.

7-2502 *Height in line with existing development*.

(A) The height of a residential building erected or altered after [effective date] shall not exceed the greater of:

- (1) 25 feet, or
- (2) The average height along the front of the building of the residential buildings existing on that block (one side of a street between two intersecting streets or one intersecting street and a street dead end) by more than 20 percent.

(B) A height greater than that calculated in Section 7-2502(A) may be permitted if a special use permit is approved pursuant to section 11-500 of this ordinance, and city council determines that the proposed construction will be of substantially the same residential character and design as adjacent and nearby properties. For purposes of this subsection, the recommendation of the planning commission on the special use permit shall be deemed a final decision of the city council, unless any person files with the city clerk a request for hearing by council within 5 working days after the action of the commission. In the event such request is filled, the application shall be docketed for consideration at the next available council public hearing meeting. All notice for applications under this subsection shall include a description of the procedure herein provided, in such form as the director shall require.

(C) For the purposes of this section 7-2502, where the number of buildings on one side of a street between two intersecting streets or between one intersecting street and a street dead end is either fewer than five or where the distance between streets as specified above is less than 200 feet or where the number of buildings is greater than 15 or where the distance between streets as specified above is greater than 600 feet, the director may designate an

appropriate block for purposes of calculating height without regard to intersecting streets subject to an administrative protocol ~~similar to that applied in substandard lot-eases~~, and subject to city council approval as part of the special use permit, if there is one, granted pursuant to this section 7-2502.

7-2503 *Front door threshold height in line with existing development.* ~~See threshold height regulations in Section 7-1002 (B) and (C).~~ Residential front setback and front door threshold in line with existing development. [The following is existing language from 7-1002(A), (B) and (C). New language is shown in bold.]

- (A) Unless a different rule is specified for a particular zone, wherever the major portion of a block is developed, and the majority of the buildings built on one side of a street between two intersecting streets or between one intersecting street and a street dead end have been built at a uniform front setback forward or behind the minimum front setback prescribed for the zone in which such buildings are located, new residential buildings hereafter erected or altered shall conform to the setback line so established. Absent a majority of buildings at a uniform front setback, the setback shall be established by the average of the front setbacks of the buildings on one side of the street of a block as described above. **For all other residential construction, including without limitation, porches and additions, the director may designate an appropriate front setback no closer to the front property line than the established or average setback line.** The board of zoning appeals is authorized to grant a special exception under the provisions of Section 11-1300 to modify the strict application of this requirement.
- (B) Whenever the major portion of a block is developed, no front door threshold of a single family, two-family or townhouse residential building erected or altered after [January 20, 2007] shall exceed the average height of the front door threshold of the residential buildings built on that block (one side of a street between two intersecting streets or one intersecting street and a street dead end) by more than 20 percent, provided, that additional front door threshold height may be permitted if a special use permit is approved pursuant to section 11-500 of this ordinance, and city council determines that the proposed construction will not detract from the value of and will be of substantially the same residential character as adjacent and nearby properties. For the purpose of this paragraph, the height of the front door threshold is defined as the vertical distance between the average pre-construction grade along the front of the building to the top of the threshold. The front door threshold shall accurately reflect the actual location of the first floor of the building, and in all cases the front door threshold shall be measured to the top of the threshold or the top of the highest elevation of the finished first floor, whichever is greater.

- ~~(C) For the purposes of this section 7-2503, where the number of buildings on one side of a street between two intersecting streets or between one intersecting street and a street dead end is either fewer than five or where the distance between streets as specified above is less than 200 feet or where the number of buildings is greater than 15 or where the distance between streets as specified above is greater than 600 feet, the director may designate an appropriate block for purposes of calculating **front setback and** front door threshold height without regard to intersecting streets subject to an administrative protocol similar to that applied in substandard lot cases, and subject to city council approval as part of the special use permit, if there is one, granted pursuant to this section 7-2502.~~

7-2504 *Open front porches and porticos.*

- (A) Ground level covered front porches and porticos constructed under the standards of this section 7-2504 shall be excluded from floor area calculated under the provisions of Section 2-145(A)(5).
- (B) *Standards for porches.*
- (1) *Extent of front porch exclusion.* No portion of the floor area of the porch to be excluded under this section shall extend beyond the side walls of the front building façade.
 - (2) *Size of porch.* To be excluded under this section, a porch shall be a minimum of 5 feet deep and a maximum of 8 feet deep. The maximum floor area to be excluded shall be 240 square feet.
 - (3) *Construction above not permitted.* To be excluded under this section, no second floor balcony, deck, or enclosed construction shall be permitted above the front porch or portico.
 - (4) *Must remain open.* A ground level front porch or portico shall remain open and shall at no time be enclosed with building walls, glass, screens, or otherwise. Railings shall be permitted no higher than the minimum height required by the building code, and with balusters evenly spaced so as to leave at least 50 percent of the perimeter length of the railings open.
- ~~(C) For front porches and porticos that cannot meet the front setback requirements, the board of zoning appeals is authorized to grant a special exception under the provisions of Section 11-1300.~~

7-2505 *Free-standing garages to the rear of the main building.*

- (A) Regardless of other regulations in this zoning ordinance, a free-standing private garage is permitted to the rear of the main building in accordance with the regulations in this section 7-2505 so long as it is the only garage on the lot or adjacent vacant lot under common ownership. The floor area of such a garage constructed in accordance with the standards of this section will be excluded from floor area calculated under the provisions of Section 2-145(A)(6).
- (B) *Standards.*
- (1) *Size.* For lots with a minimum of 5,000 square feet and with less than 8,000 square feet lot area, the garage shall have a floor area not greater than 250 square feet and a height not greater than ~~10~~ 11.50 feet. For lots 8,000 square feet or larger, the garage shall have a floor area not greater than 500 square feet and a height not greater than ~~12~~ 13.50 feet. The director may modify the height permitted in this section 7-2505(B)(1) when the height and design of the garage are appropriate and compatible with the main dwelling and with the character of the immediate neighborhood.
 - (2) *Setback.* The garage shall be set back a minimum of 3 feet from the side or rear property line if windows face the property line; otherwise the minimum setback is 1 foot.
 - (3) *Access.* If there is no direct access to the garage from an alley, a permeable-surfaced driveway is permitted in the side yard for access to the garage. Permeable-surfaced driveways can be composed of grass with ring and grid structure, gravel with a grid structure beneath, paving strips, a grid based surface, or other treatments without significant compaction of the base, but must be approved by the department of planning and zoning and the department of transportation and environmental services. Either the department of planning and zoning or the department of transportation and environmental services can grant an exemption to the permeable-surfaced driveway requirement in cases of steep slopes, adverse soil conditions, constructability, or other conditions that for safety or environmental reasons would require use of a non-permeable surfacing material. Tandem parking in the driveway is permitted. Curb cuts must be approved in accordance with Section 5-2-2 of the City Code and section 8-200(C)(5) of this zoning ordinance. The number of vehicles permitted on the lot is limited by Section 8-200(C)(6).

- (4) *Compatibility.* The accessory garage shall be compatible with the main dwelling in regard to materials and design.
- (5) *Use.* The accessory garage shall be dedicated to the use and storage of motor vehicles.

7-2506 *Attached garages.* Private garages that are an integral part of the main residential dwelling are only permitted under the following standards.

(A) Access to garage.

~~(A)(1)~~ Lot with width 65 feet or more. If the lot width is 65 feet or more, an attached garage shall have the vehicle opening facing the side yard. Such a garage may be no closer to the front property line than the plane of the front building wall. In the case of a corner lot, an attached garage may face a secondary front yard if the proposed location and design of the door is consistent with the block and neighborhood character. Such a garage may be no closer to the front property line than the plane of the secondary front building wall.

~~(B)~~ (2) Lot with width less than 65 feet. If the lot width is less than 65 feet, an attached garage with a vehicle entrance facing the front yard is permitted, but must be set back a minimum of 8 feet from the plane of the front building wall. No roof or covering is permitted in front of such a garage and any construction above shall not extend forward of the front plane of the garage. The garage door shall be compatible with the design of the residence.

~~(C)~~ (B) Driveway Surface. A non-tandem parking or garage access arrangement is permitted only if the parking area is a permeable surface, unless the department of planning and zoning or the department of transportation and environmental services determines that a permeable-surfaced driveway is not appropriate due to steep slopes, adverse soil conditions, constructability, or other conditions that for safety or environmental reasons would require use of a non-permeable surfacing material.

11-1300 Special exception.

11-1301 *Authority.* The board of zoning appeals is authorized to review applications for those special exceptions established by this section 11-1300.

11-1302 *Special exception established.* A lot in a single family, two family or townhouse zone may be the subject of a special exception from the following zoning requirements pursuant to this section 11-1300.

- (A) Fences on corner lots.

- (B) Yard and setback requirements for enlargement of a dwelling...
- (C) Yard and setback requirements for a ground level, single story, covered front porch...
- (D) Average Established front yard setback requirements for a main dwelling required by section 7-2503, subject to the following requirements:
 - (1) Limitation on front setback increase or decrease.
 - ~~(a) No main dwelling shall be closer to the front property line than the average front setback line calculated for the proposed dwelling.~~
 - ~~(b)~~ (a) An adjustment is allowed of as much as 10% from the average front setback line calculated for the project or 5 feet, whichever is less.
 - ~~(e)~~ (b) The front setback increase or decrease shall be the minimum necessary to achieve the desired result.
 - (2) The applicant shall demonstrate by clear and convincing evidence that the proposed change in front setback for the dwelling is necessary for environmental and/or critical construction reasons and that the dwelling in the proposed location will be compatible with the character of the rest of the neighborhood block and will not be detrimental to the maintenance of a an established setback along the street.